

Art Unit: 3711



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application/Control Number: 10/787,486
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Application Number: 10/787,486

Filing Date: February 24, 2004

Appellant(s): LEVIN, ROBERT

Grace Fishel

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/22/08 & 11/18/08 appealing from the Office action mailed 4/22/08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

3,678,602	Alam	7-1972
3,935,651	Mankoff et al.	2-1976

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 & 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alam (602) in view of Mankoff et al. (651).

Alam discloses Vocabulary Building Game Cards.

Regarding claims 1 & 3, Alam teaches a vocabulary building exercise using words (see abstract and claim 1), identifying a first expression (before) obscuring it (card face down) and presenting a lesser-known word to form a second expression (pre) and a means for scoring in the form of a scoring system (col. 4, lines 63 - 67). Alam fails to explicitly teach providing one or more definitions of the lesser known word(s). Mankoff discloses Vocabulary Playing Cards. Mankoff teaches vocabulary building cards with words and definitions, which are used to decipher the vocabulary word (see abstract, claim 1 and col. 2, lines 29-68). It would have been obvious to modify Alam in view of Mankoff to provide multiple choices for the players.

(10) Response to Argument

Applicant's invention is rejected under 103 U.S.C. 103(a). The examiner maintains the rejection since obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21

USPQ2d 1941 (Fed. Cir. 1992). In this case, where Alam fails, Mankoff teaches his short fall. Mankoff teaches vocabulary building cards with words and definitions, which are used to decipher the vocabulary word (see abstract, claim 1 and col. 2, lines 29-68). A modification of Alam in view of Mankoff would provide multiple choices for the players.

Further, examiner maintains that identifying a first expression(s) e.g., *Before or Tend then* Presenting a second lesser known expression(s), *pre* or *To stretch* (respectively) is no different from applicant's method since *The first expression is also obscured from the student (as in applicant's e.g., Tiger Woods) because the second expression is on the opposing side of the first expression thus only the second side can be viewed by the student at this juncture. The applied prior art reads on the claimed invention in the broadest, reasonable manner.*

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Dolores R. Collins/

Examiner, Art Unit 3711

Conferees:

Art Unit: 3711

/Gene Kim/

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